

BRENDA W. DAVIS, State Bar No. 133087
bdavis@bwdlawgroup.com

LESLIE R. WAGLEY, State Bar No. 215281
lwagley@bwdlawgroup.com

THE BRENDA DAVIS LAW GROUP
1990 3rd Street, Suite 400
Sacramento, Ca. 95811
Telephone: (916) 341-7400
Facsimile: (916) 341-7410

GARY W. SAWYERS, State Bar No. 96077
SAWYERS & HOLLAND, LLP
gsawyers@sawyerslaw.com
652 West Cromwell Avenue, Suite 101
Fresno, Ca. 93711
Telephone: (559) 438-5656
Facsimile: (559) 438-1781

Attorneys for Plaintiff
Family Farm Alliance

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

DELTA SMELT CONSOLIDATED CASES

1:09-cv-00407-OWW-DLB (LEAD CASE)
1:09-cv-00422-OWW-DLB
1:09-cv-00631-OWW-DLB
1:09-cv-00892-OWW-GSA

PARTIALLY CONSOLIDATED WITH:
1:09-cv-00480-OWW-GSA
1:09-cv-01201-OWW-DLB

**DECLARATION OF JOE DEL BOSQUE RE:
FAMILY FARM ALLIANCE MEMBERSHIP**

1 I, JOE DEL BOSQUE, declare as follows:

2 1. I am president of Empresas Del Bosque in Firebaugh, California (Fresno County) and
3 grow fruits, vegetables and nuts in areas located in Fresno and Merced counties.

4 2. I have personal knowledge of the facts stated herein and, if called upon to testify, I
5 would testify that the facts set forth below are true and correct.

6 3. I am member of the Family Farm Alliance. On November 16, 2009, I submitted a
7 declaration in the *Delta Smelt Consolidated Cases*, Case No. 1:09-cv-00407-OWW-DLB, in support of
8 Plaintiffs San Luis & Delta-Mendota Water Authority and Westlands Water District's Motion for
9 Interim Relief/Preliminary Injunction [Docket No. 442]. A true and correct copy of that declaration is
10 attached for reference as Exhibit A.

11 4. The factual information contained in that declaration continues to be true regarding the
12 effects the reduced water supply is having on my farm land.

13 5. My farm production depends upon water exported through the Delta, and I have no
14 reliable alternative sources of supply.

15 6. The water export restrictions in the 2008 Biological Opinion have resulted in a reduction
16 of the water my farm depends upon to grow my crops and will continue to cause harm to my crops and
17 business if the 2008 Biological Opinion is not withdrawn from the public domain and corrected to
18 comply with standards set forth by the IQA, the IQA Guidelines, the Final Bulletin and the ESA.

19 I declare under penalty of perjury that the foregoing is true and correct to the best of my
20 knowledge. Executed this 7th day of July, 2010 at Huron, California.

21
22
23 
JOE DEL BOSQUE

CERTIFICATE OF SERVICE

I herby certify that on July 7, 2010, I electronically filed the foregoing **DECLARATION OF JOE DEL BOSQUE RE: FAMILY FARM ALLIANCE MEMBERSHIP** with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record in this matter.

THE BRENDA DAVIS LAW GROUP

/s/ Leah Zabel

Leah Zabel

EXHIBIT A

DANIEL J. O'HANLON, State Bar No. 122380
K. ERIC ADAIR, State Bar No. 150650
HANSPETER WALTER, State Bar No. 244847
KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
400 Capitol Mall, 27th Floor
Sacramento, CA 95814
Telephone: (916) 321-4500
Facsimile: (916) 321-4555

EILEEN M. DIEPENBROCK, State Bar No. 119254
JON D. RUBIN, State Bar No. 196944
JONATHAN R. MARZ, State Bar No. 221188
DIEPENBROCK HARRISON
400 Capitol Mall, 18th Floor
Sacramento, CA 95814
Telephone: (916) 492-5000
Facsimile: (916) 446-4535

Attorneys for Plaintiffs
SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY and WESTLANDS WATER DISTRICT

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

THE DELTA SMELT CASES

SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY, et al. v.
SALAZAR, et al. (Case No. 1:09-cv-407)

STATE WATER CONTRACTORS v.
SALAZAR, et al. (Case No. 1:09-cv-422)

COALITION FOR A SUSTAINABLE
DELTA, et al. v. UNITED STATES FISH
AND WILDLIFE SERVICE, et al.
(Case No. 1:09-cv-480)

METROPOLITAN WATER DISTRICT v.
UNITED STATES FISH & WILDLIFE
SERVICE, et al. (Case No. 1:09-cv-631)

STEWART & JASPER ORCHARDS, et
al. v. UNITED STATES FISH AND
WILDLIFE SERVICE, et al.
Case No. 1:09-cv-892)

CASE NO. 1:09-cv-407-OWW-DLB
1:09-cv-422-OWW-DLB
1:09-cv-631-OWW-DLB
1:09-cv-892-OWW-GSA

PARTIALLY CONSOLIDATED WITH:
1:09-cv-480-OWW-GSA

**DECLARATION OF JOE DEL BOSQUE
IN SUPPORT OF PLAINTIFFS SAN LUIS
& DELTA-MENDOTA WATER
AUTHORITY AND WESTLANDS WATER
DISTRICT'S MOTION FOR INTERM
RELIEF/PRELIMINARY INJUNCTION**

DATE: January 20, 2010
TIME: 9:00 a.m.
COURTROOM: 3
JUDGE: Hon. Oliver W. Wanger

{00202689; 1}

DECLARATION OF JOE DEL BOSQUE IN SUPPORT OF PLAINTIFFS SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY AND WESTLANDS WATER DISTRICT'S MOTION FOR PRELIMINARY INJUNCTION

I, JOE DEL BOSQUE, declare as follows:

1. I am an adult over the age of eighteen. I have personal knowledge of the matters contained in this declaration, and if called as a witness, I could and would testify competently to all such matters.

2. I am a farmer on the west side of the San Joaquin Valley. I farm approximately 2,314 acres – 1,939 acres in Fresno County, which is located primarily within the boundary of San Luis Water District (“SLWD”), and the remaining 375 acres are located in Merced County, within the Westlands Water District.

3. SLWD is the primary source of water supply for my farm land. Since 2007, however, the United States Bureau of Reclamation (“Reclamation”) has dramatically reduced the allocation of water to SLWD, which in turn has dramatically reduced my water supply.

4. In the 2007-2008 water year – the twelve-month period from October 1 of one year through September 30 of the following year – I obtained approximately 3,073 acre-feet of water from SLWD. In the 2008-2009 water year, the amount of water I obtained from SLWD dropped to approximately 2,351 acre-feet. Based on current projections, I expect that in the 2009-2010 water year, I will be able to obtain no more than 522 acre-feet of water from SLWD.

5. My ability to farm has followed my water supply’s downward trend. In 2007, I was farming on approximately 2,300 acres, 850 acres of which I lease under long-term agreements. Presently, however, because of water supply constraints, I have had to decrease the acreage I farm by around 40% to approximately 1,400 acres. Based on current projections of my water supply for the 2009-2010 water year, however, I expect the acreage I will farm will decrease further to around 1,000 acres.

6. The water supply constraints have affected my planting decisions. Historically, I was able to grow a variety of crops including row crops. Now, however, water supply concerns force me to focus on farming permanent crops instead of row crops. Therefore, I currently farm around 660 acres of almonds, which have a remaining life of nearly two decades, and 116 acres of asparagus, which have a remaining life of around 8-10 years. I cannot cut back on the water the permanent crops require without destroying them.

{00202689; 1}

- 1 -

DECLARATION OF JOE DEL BOSQUE IN SUPPORT OF PLAINTIFFS SAN LUIS & DELTA-MENDOTA WATER AUTHORITY AND WESTLANDS WATER DISTRICT’S MOTION FOR PRELIMINARY INJUNCTION

7. The cost of supplemental water has increased steeply in the past two years and I have been forced to supplement water at a drastically increased cost. Since 2007, my cost of obtaining supplemental water has soared by three times.

8. Well water generated from my farm is unavailable. There are no wells to service the farm. Test holes have proven to be unsuccessful and we do not have the ability to drill additional wells. It is simply economically unfeasible to continue testing for wells with no reasonable prospect of success in doing so.

9. Carrying over water from one year to another is not presently an option for me. In years past, farmers were able to “carryover” water from one year to another if excess water was available to do so. Farmers would effectively “bank” the water and use the water at times when it is needed but unavailable from regular sources. This carryover water is critical to farmers because it provides extra protections during drier years and gives farmers some flexibility in their water usage. In 2007-2008 water year, I was able to carryover approximately 2,000 acre feet of water. In the 2008-2009 water year, that amount was reduced by half to 1,000 acre feet. For the 2009-2010 water year, it appears I will not have any water to carryover at all. This only forces farmers like me to purchase supplemental water at much higher rates.

10. Unsurprisingly, the decreased water supply and increased water costs have substantially reduced revenues from those crops still in production. Furthermore, even though almost one-half of my farm land lays fallowed, I am still required to pay rents on the leased land, as well as assessments and other costs associated with the upkeep and maintenance of the dormant land. This has caused significant hardship for my operation as revenues have been dramatically cut because of steeply rising costs, which are largely a result of purchasing supplemental water to make up for Reclamation’s inability to deliver contracted water to SLWD.

11. As a result of the loss of our water supply, we have had to reduce our employees’ hours by approximately 1/3 across the board. These in kind reductions to salaries have been devastating to our employees and their families. Although our farm has been able to support these types of jobs in the past, if we are ultimately forced to reduce our acreage further, we may not be able to maintain these positions in the future.

{00202689; 1}

- 2 -

DECLARATION OF JOE DEL BOSQUE IN SUPPORT OF PLAINTIFFS SAN LUIS & DELTA-MENDOTA WATER AUTHORITY AND WESTLANDS WATER DISTRICT’S MOTION FOR PRELIMINARY INJUNCTION

12. The decreased water supply also threatens to undermine nearly two decades of my efforts to create a niche market to sell high quality cantaloupes to specialty buyers. This unique niche is a critical source of revenue for my operation but is in jeopardy of being lost because of water supply constraints.

13. Looking forward, I expect the water supply constraints will soon affect my relationships with my lending institutions. More specifically, I am concerned that not having a reliable water supply will impact my ability to obtain affordable financing necessary to perform on the crops we are able to farm this year, or even to continue farming at all. Complicating matters further are banks which are employing a more rigid lending practice policy as a result of uncertain water deliveries.

14. If SLWD were to see a reverse in its declining water allocations, the anticipated damage to my crops would be mitigated in proportion to the amount of water that I receive. I expect I would also be able to retain more of my employees at the farm and possibly rehire those I have had to let go. Any such improvement in water allocation would need to occur by early spring to be of any benefit, otherwise we would miss our window to plant any row crops.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 16th day of November, 2009, at Firebaugh, California.

JOE DEL BOSQUE